

Planning on the Doorstep: The Big Issues – Green Belt

Green Belt continues to be a huge issue for councils and communities across the country; an issue that councillors face regularly on the doorsteps of their electorate. This advice note looks at the reality of Green Belt, how planning process works with Green Belt issues and the potential inclusion in development plans.



Introduction

There is a tendency to see all open or green field land and particularly that on the edge of towns as Green Belt: it isn't. Some also believe the Green Belt and its 'inviolability' as a matter of law: it isn't.

Only about 13% of the land area of England is actually designated as Green Belt, and there are some quite strict "purposes" for land to be designated as such. Many people think that Green Belt designation is designed as a means of preventing development taking place, or of directing development away from one location towards another.

There is generally a presumption in favour of development in planning. The onus is placed on the local planning authority to provide sound planning reasons why a planning application should be refused permission. In areas designated as Green Belt, the presumption is reversed and the onus is on the developer to demonstrate why permission should be granted. This difference makes Green Belt an exceedingly restrictive policy.

With the restrictions that Green Belt brings, local planning authorities with Green Belt in their areas and with Local Plans to prepare, have to make provision for needed development within a very sensitive context.

Green Belt in current practice

The basic concept of Green Belt was established back in 1902 by Ebenezer Howard in his iconic *Garden Cities of Tomorrow*. From the first guidance in 1955 to its current expression in the National Planning Policy Framework (NPPF), there have been 'purposes' for which Green Belt has been able to be designated and used, and land can only be included in Green Belt to achieve these purposes.

The five purposes of Green Belt in the NPPF (March 2012) are:

- to check the unrestricted sprawl of large built up areas
- to prevent neighbouring towns from merging into one another
- to assist in safeguarding the countryside from encroachment
- to preserve the setting and special character of historic towns
- to assist in urban regeneration by encouraging the recycling of derelict and other urban land.



It should be noted that there are perfectly reasonable planning objectives that are not addressed in the five purposes. Whilst the landscape around a town may be of high value, for instance, and may benefit from the restriction on development afforded by Green Belt policy, the conservation of that quality cannot be a reason to designate the area as Green Belt. The strict application of the Green Belt purposes would also mean, therefore, that the quality of the landscape of an area **should not be a consideration** when assessing the contribution of Green Belt to the fulfilment of Green Belt purposes. This could be a planning consideration in its own right when seeking a suitable location for development.

Green Belt is established by policy, through development plans prepared in the context of national planning policy. It is not established by legislation though often misconstrued as a legal designation, and is different in this respect from National Parks or Area of Outstanding Natural Beauty.

The Green Belt debate

The positive case

The use of Green Belt has prevented 'ribbon' or 'strip' development whereby a continuous but shallow band of development forms along the main roads between towns. The strongly held view that settlements should be maintained as distinct and separate places, has been served by Green Belt designation of the intervening land (or in some cases by the application of quasi Green Belt policies). Given that a lot of land designated as Green Belt is on the immediate fringe of significant urban areas, it is a positive reflection on Green Belt policy that it has helped to retain this land as open and hence as a valuable resource. The urban fringe is the nearest opportunity for outdoor recreation for large numbers of people in urban areas, if the land is publicly accessible. Land in these locations will be increasingly valuable for food and energy production in future. Such land should not just be kept open, but should be positively managed, through such initiatives as multi-functional community forests.

The negative case

It might seem odd, for instance, as the designation of Green Belt implies, that at some entirely arbitrary point in the evolution of a town, it should not grow any more. Even without any claim that the town has reached its 'right size' (something rather difficult to justify) it must be the case that places cannot meet modern needs and expectations yet remain unchanged. It would seem to be at odds with the basic concept of sustainability that future generations be precluded by policy now from using the available resources to meet their needs as they occur in their time. Most Green Belt was established in the 1950s and has not been objectively reviewed since. For planning, a practical consequence of the Green Belt and the emotions that it evokes may be that rational decisions about where development should go based on a balanced judgement of planning issues, are inhibited. The mantra is often: There can be no change to the Green Belt – look somewhere else. The need to meet housing need means that Green Belts should not be preserved without a rational review of their purpose set against the need for change.

The big issue

The most immediate issue for the Green Belt is the under-provision of housing across many parts of the country, where the capacity to accommodate sustainable development in urban areas is often insufficient to meet the housing requirement.

National planning policy makes provision for changes to be made to the Green Belt. Critically, changes to the Green Belt are made through the local plan. In order to make a change to the Green Belt boundary in the local plan there have to be 'exceptional circumstances' (NPPF para 83). Housing (or employment land need) can be an exceptional circumstance to justify a review of your Green Belt boundary.

This principle has been recently set out beyond any doubt by the Hunston High Court judgment in St Albans. This section of the judgement is worth quoting:

'Having identified the full objectively assessed needs figure the decision maker must then consider the impact of the other policies set out in the NPPF. The Green Belt policy is not an outright prohibition on development in the Green Belt. Rather it is a prohibition on inappropriate development in the absence of very special circumstances. It is entirely circular to argue that there are no very special circumstances based on objectively assessed but unfulfilled need that can justify development in the Green Belt by reference to a figure that has been arrived at under a revoked policy which was arrived at taking account of the need to avoid development in the Green Belt.'

Duty to Cooperate

The current arrangements for strategic planning through local plans established by the Duty to Cooperate in the Localism Act 2011 and the soundness tests in the NPPF are relevant to the consideration of Green Belt.

The level of housing which a local plan needs to provide for is determined in part by whether there is an 'unmet requirement' from a neighbouring authority (NPPF para. 182). More generally it is said that, 'Local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans' (NPPF, para. 179). Green Belt is a strategic policy and hence a strategic issue in the terms of the Duty to Cooperate, and so areas of Green Belt should be assessed by local authorities collectively. Significantly Green Belt surrounding an urban area may fall into different administrative areas. Does a neighbouring authority's non Green Belt land prevail over local Green Belt? In the absence of Regional Strategies (which were a means of addressing and making decisions about these issues), some authorities are working together to resolve such matters.

Green Belt reviews

This term is used in reference to looking at the balance of demand and supply to see whether a change will be needed to the Green Belt; and in some cases to the actual revision of Green Belt boundaries. Any review of Green Belt boundaries should involve an assessment of how the land still contributes to the five purposes noted earlier, and take place via the local plan process.

Below we look at some ways that the five purposes might each be used in assessing the contribution of land to the Green Belt when undertaking a Green Belt review. Some of these purposes will be more relevant, or important, than others on the choices to be made.

Purpose: to check the unrestricted sprawl of large built up areas

The terminology of 'sprawl' comes from the 1930s when Green Belt was conceived. Has this term changed in meaning since then? For example, is development that is planned positively through a local plan, and well designed with good masterplanning, sprawl?

Purpose: to prevent neighbouring towns from merging into one another

Green Belt is frequently said to maintain the separation of small settlements near to towns, but this is not strictly what the purpose says. This will be different for each case. A 'scale rule' approach should be avoided. The identity of a settlement is not really determined just by the distance to another settlement; the character of the place and of the land in between must be taken into account. Landscape character assessment is a useful analytical tool for use in undertaking this type of assessment.

Purpose: to assist in safeguarding the countryside from encroachment

Presumably all Green Belt does this, making the purpose difficult to use to distinguish the contribution of different areas. The most useful approach is to look at the difference between urban fringe – land under the influence of the urban area - and open countryside, and to favour the latter in determining which land to try and keep open, taking into account the types of edges and boundaries that can be achieved.

Purpose: to preserve the setting and special character of historic towns

This purpose is generally accepted as relating to very few settlements in practice. In most towns there already are more recent development between the historic core and the countryside between the edge of the town.

Purpose: to assist in urban regeneration by encouraging the recycling of derelict and other urban land

With this one, it must be the case that the amount of land within urban areas that could be developed will already have been factored in before identifying Green Belt land. If Green Belt achieves this purpose, all Green Belt does to the same extent and hence the value of various land parcels is unlikely to be distinguished by the application of this purpose.

On this basis the types of areas of land that might seem to make a relatively limited contribution to the overall Green Belt, or which might be considered for development through a review of the Green Belt according to the five Green Belt purposes, would be where:

- it would effectively be ‘infill’, with the land partially enclosed by development
- the development would be well contained by the landscape e.g. with rising land
- there would be little harm to the qualities that contributed to the distinct identity of separate settlements in reality
- a strong boundary could be created with a clear distinction between ‘town’ and ‘country’.

The purpose of a review is for the identification of the most appropriate land to be used for development, through the local plan. Always being mindful of all of the other planning matters to be taken into account and most importantly, as part of an overall spatial strategy.

Sustainable development needs to be considered here. It is a matter of law that, ‘any person or body engaged in the preparation of Local Development Documents must exercise the function with the objective of contributing to the achievement of sustainable development’ (2004 Planning Act). Similarly reporting on the environmental implications of reasonable alternatives is a statutory requirement of plan making, and Green Belt is not an environmental matter.

Sometimes, based on what is now understood about accessibility, trip lengths, and the use of appropriate travel modes for instance, the most sustainable locations for development may well be in Green Belts. The only relevant statement in national policy on the relationship between sustainable development and Green Belts is, ‘when drawing up or reviewing Green Belt boundaries, local planning authorities should take account of the need to promote sustainable development’ (NPPF para. 84).

This leads to the view that to justify the use of land in the Green Belt for development through the local plan, an assessment needs to take account of sustainability issues - such as

accessibility and environmental assets - and an assessment against Green Belt purposes to be combined with a comprehensive assessment according to other issues. A common interpretation of the policy position, though not one expounded in the NPPF or the Planning Practice Guidance, is that where necessitated by the development requirement, plans should identify for development of the most sustainable locations, unless outweighed by effect on the overall integrity of the Green Belt according to an assessment of the whole of the Green Belt according to the five purposes.

Safeguarded land

There is a particular feature of Green Belt policy that arises from the combination of the wish for permanence, and yet the inevitability of having to find land for development through development plans. This is the idea enshrined in policy, that changing Green Belt boundaries should only be necessary once in the plan period. The land taken out of the Green Belt under this policy provision but not to be used for development in this plan period is 'safeguarded land'; protected from development proposals arising in the meantime by policies with similar force to Green Belt.

These principles are in the NPPF (para 85): local planning authorities:

- should 'satisfy themselves that Green Belt boundaries will not need to be altered at the end of the development plan period'
- 'where necessary identify in their plans areas of 'safeguarded land' between the urban area and the Green Belt, in order to meet longer term development needs strategy well beyond the plan period'.

Identifying safeguarded land is another requirement of a Green Belt review therefore. One challenge for authorities is that there is no guidance on how they are to interpret the policy, nor (to date) any consistent pattern discernible from local plan examinations. In some cases local authorities seek to identify safeguarded land in Green Belt changes over and above the calculated development requirement for the plan period, but there are certainly cases where the issue is effectively ignored by the planning authority and examining inspectors alike.

Summary

Discussions about Green Belt are often controversial and challenging. We recommend local authorities try to reduce the challenge by:

- giving clear and correct information about Green Belt to remove misunderstanding
- making the consideration of Green Belt in the context of proper planning for sustainable development for the whole community
- trying to avoid allowing Green Belt to establish a special, mythical status – through setting it alongside the use of agricultural land, increasing risk of flooding and effect on valuable landscapes in deciding where development is to be provided
- to get informed debate from communities on the issue and for councillors to show strong leadership.

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